P Jumma

P17

G. R. S. IX-5]

Previous references.
pol 138-18 (1-8)

File No. 138-18

1918.

Serial Nos. 9 & 10

(pol)

Later references.
W. 116-1-19

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two

Part B. for March 1920

SUBJECT.

Jumma Musjid at Arkalgud.

Cl (10) So,

Ike by Commr. Hassan dt.
No G 8882 dt 18-10-19

Stating that Govt see no reason to modify the orders passed in G.O. No G 16300-3/pol 138-18 dt 5-2-19 in connection with the petition from the Hindu Inhabitants of Arkalgud praying for certain concessions while conducting Hindu processions in front of the Jumma Musjid.

W D 1250—GPB—30,000 28-1-19

10/6/20.

G. R. S. III—1] 1918-19

GENERAL AND REVENUE SECRETARIAT.

(Pol)

NOTES.

File No. 138-18

FILE HEADING.

Jumma Mazjid at— Arkalgud

From

The D. C. Hassan dist

No. A.D.C. 3578/6 Dated 28.5.19 Received 7.6.19

Diary No. 1788 | Enclos. 1 Spare Copies. — | Serial No. 9

BRIEF ABSTRACT OF LETTER.

forwards for favourable consideration a petition from the Hindu inhabitants of Arkalgud praying for certain concessions while conducting Hindu processions in front of the Jumma Mazjid.

NOTES AND ORDERS.

H. The long standing dispute between the Hindus and the Mahomedans of the place was settled in G.O. no. G. 16300-3 Pol 138-18-8 5th July 1919 on the lines proposed by the Dy Comr.

2) The first clause of the Compromise proposed

NOTES—First Sheet.

Serial No.

by the Dy Comm was as follows:-

"The Hindoos should stop the music 30ft on either side of the Masjid premises every Friday between 12 noon and 2-30 P.M during Namaz and on Bakrid and Ramzan festivals between 10-30 A.M and 1 P.M during Namaz."

~~Hindoos want this Clause that the Hindoos want~~

3) The Hindoos want this Clause to be modified and request that the restriction that music should stop on every Friday in front of the Masjid may be deleted and confined only to the occasions of Bakrid and Ramzan days.

4) Ltr for Advs

5) The Dy Comr ~~Asst Supdt~~ hopes the 11.6. feelings of the Hindus.

GPS 11/6.

6) No D.C says that he had not recommended the conditions now objected to.

7) Please mark up the enclosure to D.C Telli Dt 12.6.18

To me 11/6

8) The terms of compromise are contained in the Mukhalika signed by the Mohamedans.

9) Ltr GPS 16/6

12.6.

NOTE—Contn. sheet.

-1 (3

General and Revenue Secretariat. | pR File No. 138 of 1918.

Serial No.

(c) A Comparative study of para: 2 of the D-C's letter of 12-6-1918, para. 3. of his letter of 31-10-18 & of para 3 of the preamble to the G-C of 6-2-19 bears out the Dy Comr's contention.

flag L.

flag E

flag H

(d). ~~The terms~~ Condition 1 as stated in para 3 of the preamble to the G.C accords with the condition as set forth in the Muthalaiba executed by the Mahomadans & not-[illegible] with that recommended by the D-C.

flag G.

(e) The D C himself ~~is guilty of~~ is partly responsible for this result as in his two letters above referred to he did not explicitly differentiate his recommendation from the Condition stipulated by the Mahomadans but in effect made it appear as if his ~~was~~ recommendation covered the ~~entire ground~~ Mahomadans' request entirely. Thereby a Confusion ~~appears~~ appears to ~~have~~ occurred in the mind of the ~~D C~~ D C. The Preamble, however, ~~has~~ quoted the Condition in the Muthalaiba ~~Paragraphs 33~~ & the notes in Bliss file 138-08, appears also in Paragraphs 29 on which the subsequent decision is mainly based, and it is not clear whether ~~they intended~~ the intention,

NOTE—Contn. sheet.

Serial No.

was merely to sanction the limited recommendation of the D.C or the pledges of the Mahomedans in their entirety.

13) Sub^d for orders

Chief Secy

Hm
11-7-19.

14) The mistake is due entirely to the vagueness of the D^t magts Communication. The reference to "a few occasions of prayer" in the letter of 12 June 18 & "Special mahomedan festival days" in the letter of 31st oct 18, may well be interpreted to cover all the occasions mentioned in the mutchalika. It was the D^t magts duty to have made it clear that the mutchalika was ~~not~~ to be accepted not in its entirety but with a material difference. If such a difference was contemplated, I fail to see much use in the mutchalika itself.

15) Now the necessary modification may be ordered to be made.

3rd member

384
24.7.19

esh
21/7/19
Hm
24-7-19

~~For the Mutchalika Executive Engineer~~

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

Police File No. 138 of 1918

Subd

The record shows that the Hindus were no parties to the so-called compromise. Only the Mahamedans who have signed the mukhalika, and the Hindus have not signed it. Hence the Court's view objected to by the Hindus not legally binding on them may perhaps be modified as proposed by the District Magistrate on reasons stated in his letter dated 28.5.19.

D. M. 3/8/19

Please put up with the record of the C. Court: Sessions 1918

D. M. 6/8

2nd SCJR 6/8

NOTE—Contn. sheet.

b) Draw on as we submitted to the 2nd member who is in charge of the Judicial portfolio.

2nd member

5/8/19

573 5-8-19.

D. M. 3/8

c) As I was specially empowered in this case by H.E.H. to accept the compromise please put up that file.

5/8/19

d) Please see my letter addressed to the I.G.P. and let me have a note as to what the general land is on which the stopping of music when an assembly is lawfully engaged in performance of worship (see 296 I.P.C.).

6/8/19

Subd

e) Vide flags y, z, A, B with reference to para 18.

8/8

f) No latest decision on this point is in the Library & I have given a slip to the Reporters. Please put the same up to Chief

D. M. 15/8

G. R. S. III-2]

General and Revenue Secretariat. | Police File No. 158 of 1918.

Serial No.

w) The general law as the question of stopping music when persons are assembled for religious worship is contained in the leading case of Sundaram Chetty vs. the Queen, reported in I. L. R. VI Madras p. 203, and it is stated as follows:—

x) "In affording special protection to persons assembled for religious worship or religious ceremonies, the law points to congregational rather than private worship, and it may fairly be required of congregations that they should inform the authorities of the hours at which they customarily assemble for worship, in order that the rights of other persons may not be unduly curtailed"

ab. p. 222.

y) "no law recognising the right to the undisturbed performance of public worship is not extended to mere private worship, assemblies as may take place in a mosque at all hours of the day. No difficulty ought to arise in fixing the hours of public prayer. If the question of the evidence of a custom for all processional music to stop when

passing a mosque. Should ever be put in issue in a court it would have to be borne in mind that, though general customs are common law, a custom has to be proved before it can be recognised by a Court as law, and that a practice, however ancient, is not necessarily a valid custom. To constitute a valid custom it must be reasonable as well as certain & ancient, and it is not probable that any Court would hold that to be a reasonable custom which requires the members of one section of the Community to restrict themselves in their ordinary rights in recognition of the reverence due to a religion to which they do not belong & in which they do not believe."

I.L.R. VI Mad: p. 226.

(3) This decision has been followed in.

I.L.R. 14 Bombay p. 25

" 26 Madras p. 326

& Mysore C.C.R. XXIII p. 103.

(4) Law Reports have been put up by Registrar A, W, & X & T.

(5) Send for orders

P. M. 25/8

SGR 25/8 And see II Mysore

NOTE—Contn. sheet.

1001 26.8.18

G. R. S. 111-2]

General and Revenue Secretariat. Police. File No. 178 of 1918.

Serial No.

Please put up the file relating the stopping of music before the church at Dumka. In the case the Deputy Commr was asked by the Govt. for not taking action against the members of Santal Deputation who were alleged not to have stopped music before the church at Dumka while Santal procession was passing on Christmas day 1899 or 1901.

Sd/-
28/8/19
D. M. 1/9

Wynd

The file is said to be missing. Action has been taken to obtain a copy of the G.O. from any of the Dep. Com.rs.

28) If approved, the receipt of the same may be awaited.

D. M. 6/9

1264
11.9.19

II Member

29) It is very strange that this file is important file relating to the conduct of the Deputy Commr who was censured & requiring his explanation & his letter has been missing. Where

NOTE—Contn. sheet.

(9

G. R. S. III-2

General and Revenue Secretariat.

Political File No. 173 of 1915.

Serial No

the music stopped in front of the Church while service is going on. 4 Missing.

30) The law is that every Communicant a regular Deacon or worship undisturbed in any body, but the worship which carries on is meant of the regular is congregational worship which is carried on at stated hours and not private worship which may be carried on at any part of the day. Now worship in mosques is of two kinds congregational worship which is carried on at stated hours and private worship which might carried on by individuals at all hours of the day. Now what the accused say down is that the former worship is prohibited whilst the latter is not unless a long established usage is shown to support of the same. The general regular Namaz Obtains the music stopped in front of the mosques and Khanakas at all hours of the day cannot be conceded unless long established usage is proved. But the right to have the music stopped at the service time is not dependent upon usage and so the same is applicable to the mosques, Khanakas

NOTE.—Contn. sheet

General and Revenue Secretariat. | Police File No. 138 of 1918.

Serial No.

[illegible] is a long [illegible] which happily came to an end by his [illegible] by his death. It is impossible to keep his case [illegible] and keep his old ones alive. The Dy Comr may be informed that his [illegible] in the matter since that his [illegible] claim is no more than that they are entitled to under his [illegible] depend entirely upon custom or usage in that matter.

12/9/19

31) Mazid(1) prepare draft letter to D.C. and (2) see that this file sent to is traced

D.M. 13/9

32) Draft [illegible]

7/9

33) Draft letter to D.C. for approval

Chief Secy

D.M. 19/9

2nd member
3rd member
Dewan

1697 23.9.19

1031 30.9.19

DEWAN'S OFFICE.
Recd. on OCT 1 1919
Reg. No. 2300

NOTE—Contn. sheet.

34) [illegible] may come [illegible]

3.10.19

35) [illegible]

4/10/19 D.M.

36) Letter received on 3.10.19 from the residents of Akalgarh town is placed in the file. The Dewan desires that a suitable [illegible] may be given.

20. W.S./3/10/19.

G. R. S. III-2]

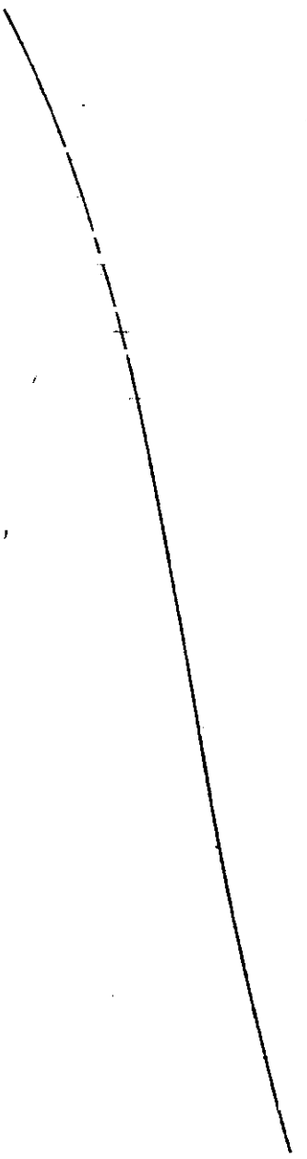
17 c.t.1

12

General and Revenue Secretariat.

Police File No. 13[illegible] of 191[illegible]

Serial No.	
10	To the [illegible] in [illegible]
	[illegible]
	State that [illegible]
	[illegible]
	[illegible]



NOTE—Contn. sheet.

G.R.S. III—3]

1885 / 13

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Police Files 138 of 1918 is herewith returned for recording and needful.

Routine Notes with order of the Asst. Secy. to trace a missing reference is retained.

20.1.20.

To,
The Protection Branch.

A note has been made in the Reference Note-Book

2/2

P.S.

2-FEB 1920

Noted.

4-FEB 1920

N.B.— Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

1918-19

Office of the Deputy Commissioner,
Hassan District,
Dated Hassan the 28th May 1919.

14

From

C.Venkata Rao, Esquire, B.A.,

Deputy Commissioner, Hassan District.

To

G.Aravamudu Iyengar, Esquire, B.A.,B.L.,

Secretary to the Government of His Highness the Maharajah of Mysore, Muzrai Department, Bangalore.

Sir,

In forwarding herewith for favourable consideration a petition from the Hindu inhabitants of Arkalgud praying for certain conces--sions regarding the conduct of Hindu processions in front off the Juma Masjid at the place, I have the honour to state as follows:-

2. In my letter No.R.O.C. 3578/Mis dated the 13th June 1918 --- submitting a final report on the terms by which a compromise could be effected between the Hindus and the Mahamadans, I have proposed that music should stop in front of the Masjid on a few occasions - of prayer and I have made it clear in my subsequent letter No.R.O. C. 3578-16/Mis dated the 1st November 1918 that the concession --- refers chiefly to prayers on special festival days which I wanted- to dispose of in the capacity of the District Magistrate. The -- other two conditions I have proposed are that the fine of Rs 50-0-0 imposed on the Mahamadans for having encroached upon a Government land and unauthorizedly built a gateway to the North of the Masjid may be excused; and that Rs 60-0-0 being the price of the encroach--ed portion should be recovered from the Mahamadans. I have forwar--ded a Mutchalika executed by the Mahamadans along with my letter No. 3578 dated the 13th June 1918, wherein they have bound them-- --selves to abide by the conditions set forth supra.

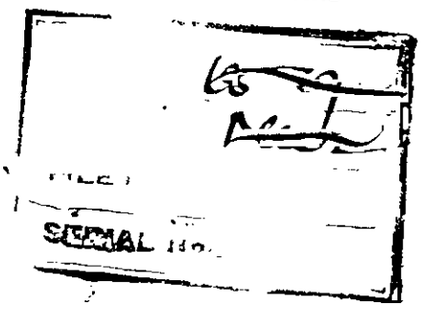
3. In the order No.G. 16500-3/Pol. 138-18-8 dated the 5th Febru--ary 1919 passed by Government, it is stated that music etc, ----- should stop on every Friday as well in addition to the relaxations I have proposed.

(continued)

DIARY No. 2168

71399

1918-19



From

C.Venkata Rao, Esquire, B.A.,
Deputy Commissioner,
Hassan District.

To

G.Aravamudu Iyengar, Esq, B.A., B.L.,
Secretary to the Government
of H.H. the Maharajah of Mysore,
Muzrai Department, Bangalore.

Dated the 28th May 1919.

Despatched. — 00 —

Received.

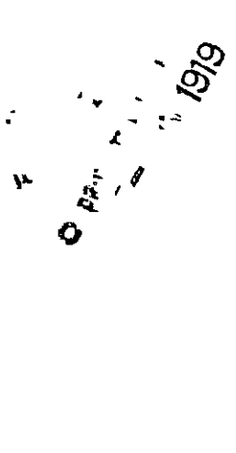
General No. R.O.C. 3578-16/Mis. 1
No.

Enclosure:- One petition.

==========

-:S U B J E C T :-

Forwarding for favourable consider--ation a petition from the Hindu inha--bitants of Arkalgud praying for cer-;tain concessions while conducting -- Hindu processions in front of the Jama Masjid.at the place.



4. The petitioners represent that this restriction operates as a great hardship on the Hindus and would lead to further dis--sensions and unrest as explained in para 7 of their petition -- herein enclosed. I am also inclined to endorse their views as Fridays are considered sacred by the Hindus as processions with music have to be conducted.

5. I may also be permitted to ~~observe~~ mention that the concessions -- extended to the Mahamadans in the matter by Government in their order No.G. 16300-3/Pol. 138-18-8 dated the 5th February 1919 are more liberal than they expected or merited.

6. In these circumstances, I request that the restriction -- that music should stop on every Friday in front of the Masjid -- may be deleted and confined only to the occasions of Bakrid and Ramzan days.

7. I request that orders of Government may kindly be obtain--ed in the matter at an early date.

I have the honour to be,

Sir,

Your most obedient servant,.

Deputy Commissioner,

Hassan District.

M.V.

16

G. R. S. VI—G/32]

SUBJECT, Hindu processions in front of the Jumma Masjid at Arakalgud

Diary No. of letter replied to. 17789

GENERAL AND REVENUE SECRETARIAT
(Police)
the 191 .

Date of issue 18.10.21

Signed by... Mr. P.M.

Section Police
File No. 38-18
Serial No. 10

No. 16888/one.

To

The Deputy Commr,
Hassan District

Sir,

With reference to your letter No. R.O.C. 3578-16/Mis dt 28th May 1919 forwarding for favourable consideration a petition from the Hindu inhabitants of Arkalgud praying for certain concessions while Hindu processions are conducted in front of the Jumma Masjid at the place I am directed to state that

over.

have examined the records and
that Govt see no reason
to modify the orders already passed in
G.O. No. 17.
G 6300-3 / Police 1318-8
dt 5th Feby 1919 already
passed in the matter;
as what the Mahomedans
claim is no more than
what they are entitled to
under the law independent
of any custom or usage.

Mac.

2. The petition received
with your letter under
reference is returned herewith.

I have &c

1919

for Chief Secy

SRB
19

List of enclosures.

Copied by

Examined by

WD 1744—GPB—30,000—19-3-19